G. R. S. 59] GPB—15,000—20-12-13

GENERAL AND REVENUE SECRETARIAT.

1901-02
(Police)

File No. 67

Serial Nos. 1—6.

Papers Filed.

Month July 1902

SUBJECT.

An irregular Procedure of arrest by a constable of the Mangalore Police, in the Mysore Territory.

PREVIOUS REFERENCES.	LATER REFERENCES.
	recommended

Drawer
P. Sathyanarayana Rao

SECTION Police

FILE No. 670/01-02

SERIAL No.

× Vide letter Sl no 2 in Part K of F.F. 29/8/02

× Vide Sl no 3. (Part K.

Vide his letter no 241 dy 11/2/02 (received with F.A. Resident's no 1070 dy 27/2/02

Office Note

The District Magistrate of Kadur × reported to Govt the case of a Constable (No 424) of Mangalore, who had arrested some coolies of the Harakhan Estate in the Sakleshpur Taluk under warrants issued by the Stationary Sub. Magistrate of Mangalore, without any reference to the local Magistrate. The case was thereupon × brought to the notice of the Hon'ble the Resident. The Ag Chief Secretary to the Govt of Madras × states that as the Bench Magistrate himself instructed the constable that no intervention of

the Lyons authorities
was necessary the blame
for any irregularity
would seem to rest
mainly with the magistrate
himself. As it also
appears that the
constable was accompanied
when making the
arrest by a constable
of the Lyons Police force
deputed for the purpose
by the Police Inspector
the no substantial
irregularity was committed
The report of the
Dt. Mag. of Vale of Santa
Catarina ~~is also dubious~~
gives the facts, as
they are said to
have occurred, of the
arrest. He states
that he first went
to the Municipal Magistrate of Families
to get the warrant
endorsed by him and,
on being told that
he was sufficient

authority in himself
their encumbrances affea
before the Sabbath Day
Inspector who count
the warrants and g
him the aid of one
his constables. The l
them. went to the ho
and arrested the acc
on Mr Johnson, the
Manager of the Estat
declining to give the
up, the Manchester
left them in the
custody of the Deputy
Constable and refus
the matter to the
Aurelian. The Aurel
then gave a letter to
Mr Johnson on whi
the latter allowed th
Constable to take
away the accused.
accused was produ
before the Ol. Magis
of Kadavu and remo
with his sanction.

The Aurelian -
Magistrate of Savusavu
had no opportunity
of stating whether the

version of the story as given by the Constable is entirely true.

The District Superintendent of Police, Santa Cruz Islands, states that there are two points in favour of the truth of the story of the Police Constable. The warrants bear the endorsement of the Police Inspector. The Assistant-Magistrate in his ~~letter to Mr. Johnson~~ report to the Dt Magistrate upon the complaint of the Constable that he was obstructed by Mr. Johnson in the arrest of the accused states "A similar verbal complaint was made to me by a Rennellese Constable about the 25th Ult. I wrote & told Mr. Johnson that the British Police might arrest persons warranted by the British Magistracy without previous reference to the Lagoon Authorities and as he was of such

* vide Karen Dt Magistrate's order No 410 & the Assistant's report thereunder. (Enclosure to H.M. Resident's letter).

on prisoner when he made the report long after the arrest he must have been of a similar opinion when the Constable first went to him. That the Constable first went to the Amildar seems to follow from the following facts. The endorsement on the warrant by the Police Inspector is dated 26th Aug 1901. The Amildar states that the Constable appeared before him about the 25th of Aug the date on which the Constable states that he appeared before him. On the 27th Aug he received a letter from the Amildar. Inspector Hake and the accused were taken on the 28th of Aug. The two days' delay is due to the Constable having to get a letter from the Amildar. Mr. Pherozeshah in his letter states that on which he agreed

enclosed with F.A. Resident's letter.

to leave the Cashier
here with a bygone
"Constable till next
morning" thus showing
that the Constable
did not act on his
own responsibility but
with the direct assistance
of the bygone Police
Constables whom he had
with him".

The Hindoo and
the Police Inspector may
be called if the facts
stated by the Police Constables
are true and if they are
of the letter written to Mr
Johnson by the Hindoo
kept it may also be
sent for, as the original
is said to be destroyed
so that all the facts
may be before the Court.

Submitted for orders

Ryan
2/13/02

Call for explⁿ on the
matter & if the facts
are as stated, the
Why
Mgte
Dist raised the question
of irregularity. Hrn
2/13 AT

Office note Continued

In reply to the enquiry made as directed above, the Dt Magistrate of Kadur states that the order No 62[x]26-35/J.668 dated 18th November 1898, points out under order No 115 - Arrests in Foreign Territory — (printed in the above order), "no arrest can take place in Foreign Territory without a warrant, and that the warrant must go through the regular channel." He further states that "the proper course to pursue when such a person has taken refuge in foreign territory is to report it to the Magistrate of the Dt in order that the necessary warrant may issue", and that in the case of any grave criminal taken refuge in foreign territory it may frequently be inadmissible

x sl No 8 in part Co.

x (Vide Police order No 15 printed thereunto).

admissible for the Police
officer to go to the Head of
the Police of the place
where the fugitive is, and
state all the circumstances
circumstances in
order that the Police
of the territory may
be warned to keep an
eye on the criminal
until the proper
forms have been
complied with.

The Dt Magistrate
further observes that
in the present case
the offence complained
of was not a grave
one and that there-
fore the Police Court
should have taken
the warrant to the
Magistrate of the Dis-
trict instead of merely
obtaining the Signature
of the Taluk Police
Inspector as such
a procedure may
lead to abuse

Jud

future.

2. As regards the present law of the Extradition of persons in Burma alleged to have committed offences in British India, please see the Assistant Secretary's note in Part 2 of the file.

Submitted for orders.

The District Magistrate states that he reported the case to the Govt. and the procedure adopted by the Police Constable in making the arrest does not seem to him that the warrant was first taken to the Police Inspector and endorsed by him and that the arrest took place in the presence of the Inspector Police. Whether the warrant was first taken to the Magistrate and it was stated by him that his intervention was not necessary in making the arrest, as stated by

purpose.

As regards the present law of the Extradition of persons in Mysore alleged to have committed offences in British India, please see the Assistant Secretary's note in Part 2 of the file. P. 181 No 7

Submitted for orders.

The District Magistrate states that he reported the case to the Govt. an account of the procedure adopted by the Police Constable in making the arrest. He does not seem to deny that the warrant was first taken to the Police Inspector and endorsed by him and that the arrest took place in the presence of the same Police. Whether the warrant was first taken to the Magistrate and it was stated by him that an offence had been committed necessary in making the arrest, as stated by

The District Magistrate seems to admit the facts as stated by the Cantonment Police Constable. He objects to the arrest by him, on the ground that as the offence was not very grave, he ought to have brought the warrant to him (Dt. Magistrate) instead of taking it to the local Officer, as required by Order No. 6226-35 dated 18th Nov 1898 J.668 The Dt. Magistrate does not seem to be right in the construction put by him upon the order. The Dt. Magistrate in Order No. 115 referred to by him is evidently the British Magistrate and not the Magistrate of the District in the foreign territory where the criminal may

have taken refuge. The word
British is added in brackets after Dist
and it is also clear from
the full text of the Police
Circular printed as No 157
in the above proceedings
where the word the usual
cloth may be taken to
procure exhibition are
also added.

Notification No 111 of 1878 SC No 1 in file K

which requires magistrates
& Police Officers in Assam
Criminal Processes
issued by magistrates
in British India does
not require that such
processes should be first
taken to the Dt magistrate.

The correspondence may
therefore be recorded with
the observation that the
Hindu on magistrate of Cachar
was wrong in informing the
Police Constable that his
~~Police interference~~ interference
was not necessary in
effecting the arrest and
the Dt magistrate, in referring
the case to Govt.

Submitted for orders

Shri
11/4/02

Subd to Secy Ft 11/4/02

As we are not upholding the
acts of our officers, I do not
think that any further

If no reply is given to
the Resn, this may be
done. If so, let me
see draft Resn

3/5

Communication is necessary with the Residency. The Dewan has noted on the letter from the Residency "Let me see the file". Submitted with a draft. If necessary a copy can be sent to Resdt.

8/5/02

Submitted to the Dewan

9/5/1902

Read
19.5.02
4536

I do not think it necessary or useful to pursue this further. Send a reply to effect that I am stated in which Consulate Mr Amedan met I am sure that Lord Curzon had no intervention was unnecessary the Amedan was wrong - and that this error should be pointed out

17.VII.02

SECTION Pol

FILE No. 67/0701-02

SERIAL No. 1

(General Serial No. 30.)

3916
23-9-01.

From The District Magistrate of Kadur

To W. V. Nanjundiah Esqr.
Secretary to the Govt of Mysore
General & Revenue Depts

Dated 1901 } September 01.
Despatched 20 }

Received

General No. 213 } 1901.
No.

Enclosures Number. 2.

Bringing to notice of Govt
for such action as they may deem
fit the procedure of British Police
Constables arresting persons with
in Mysore State, without informing
the local authorities.

Jud
25/9

H/Lett Dept.
24.9.01

Kadur District magistrates office
Chikmagalur 19th September 1901

From

H. A. Sharkey Esquire.
District magistrate
of Kadur

To

H. V. Nanjundayya Esquire M. A. M. L.
Secretary to the Govt of Mysore
General and Revenue Depto

Sir,

I have the honour to inform you that, on 30th August 1901, Constable, No 424, of Mangalore appeared before me and complained that he had been obstructed by a certain coffee planter Mr Johnson of the Hosakan Estate, Santaveri, while arresting some coolies under warrants issued by Stationary Sub Magistrate, Mangalore. I directed the Amildar magistrate of Tarikere to report upon the matter, and I now submit his report and the letter received from Mr Johnson for perusal. From these, it is very evident that the constable proceeded direct to the Hosakan Estate and arrested the persons entirely on his own responsibility without any reference to the local magistrate, or even the Superintendent of the Estate. As this procedure is contrary to that laid

Chief-Commissioner's Notification, No. 111,

dated 23rd July 1878.

Under the authority of His Excellency the Viceroy and Governor-General in Council, the Chief-Commissioner ~~has~~ directs that all criminal processes of whatever description, when issued by any Magistrate having jurisdiction in any District of British India, shall be acted upon and executed by all Magistrates and Police officers in Mysore, under the same conditions, and in the same manner, as if such processes had been issued by a Magistrate having jurisdiction in Mysore.

laid down in Government memo
no 938/3101 of 21st July 1900, I request that
you will bring the matter to the notice
of the Government for such action
as they may think fit, as the sooner
the present mistaken idea of the Brit
Police in presuming that they are
entitled to make such arrests in
Mysore, is put a stop to the better
I may mention that the warrants
question were addressed to a certain
Police officer in Mangalore, where
failing to find the accused they
traced them to Mysore and arrest
them on the Hoskan Estate.

I have the honor to be,

Sir,

Your most obedt Servant

Little Gentry

District Magistrate

of Kadur

SECTION Pol

FILE No. 67/01-02

SERIAL No. 2

No. 7324 dt 8-11-01
7612 Encls.

To,

The 1st Assistant to
the Resident in Mysore

Draft Submitted
to the Dewan
Asst
24/10

Read
30/10/01
2071

Issue
Asst
4/11

Sir,

I am directed to for-
-ward for favour of such
-action as the Hon'ble the
Resident may deem fit
to take a copy of a letter
no 213 dated the 19th Sept
1901 from the D.M. magte
of Kadur as well as its enclo
in original (to be obliged
returned) reporting the a
arrest by a Mangalore
Constable, No 424 of certain
coolies who were work
-ing in the Hoskan Estate
in the Tarikere Taluk of
the Kadur Dt, without
the intervention
forming the local magte

under the authority of a
warrant issued by the
Stationary Sub-magte
of Mangalore

of Police

~~of the Sub~~ annexed.

The procedure laid down in Rule 8 is unauthorized & irregular.

I have the honour to be, Sir, Your most obedient servant,

4-10-01

24/10

Secy.

2.XI.07

31/10/01

11450-1371/5

Copy of letter No.241 dated the 11th February 1902,

from the Acting Chief Secretary to the Government of Madras, Judicial Departm

SECTION Pol

FILE No. 67 of 01-02

SER'AL N. 3

to the Honourable the Resident in Mysore.

I am directed to acknowledge the receipt of your letter, No.6027, dated 4th of December 1901, on the subject of an arrest made in Mysore territory by a constable of the Mangalore Police.

2. In reply I am to forward for your information a copy of the report on the subject made by the District Magistrate of South Canara. If, as stated by the Constable, a statement to a certain extent supported by the correspondence which accompanied your letter- the Amildar Magistrate of Hoskan instructed the constable that no intervention by the Mysore authorities was necessary, the blame for any irregularity which may have occurred would seem to rest mainly upon the Magistrate himself. As it further appears that the Mangalore constable was accompanied when making the arrest by a constable of the Mysore Police deputed for that purpose by the Police Inspector, the Governor in Council considers that no substantial irregularity was committed.

To this? A very important incident

Let me see the whole file

File Subj 20/3/02

No. 1070
Jm 3.

The Resident's Office.

Bangalore, 27th January 1902.

Copy

Copy of the foregoing letter, with a copy of its enclosure, is forwarded to the Dewan of Mysore with reference to his Secretary's letter No.7324 dated the 7th November 1901 the original enclosures of which are herewith returned.

Copy of letter from the District Magistrate of South Canara, Mangalore, Dis.No.6-Magl.R of 1902, dated 23rd January 1902.

In returning the enclosures to Government memorandum No.1986, dated the 12th December 1901, I have the honour to state that the Superintendent of Police, in submitting the explanation of Constable No.424 in connection with the arrest complained of, remarks as follows:-

"He states that he first went to the Amildar Magistrate of Tarikere to get the warrants endorsed by him, and on being told that he was sufficient authority in himseld for their execution, appeared before the Taluk Police Inspector, who countersigned the warrants and gave him the aid of one of his constables. The two then went to Mr. Johnson's estate and arrested the accused. On Mr. Johnson's declining to give them up my constable left the men in the custody of the Mysore constable and proceeding to the Amildar Magistrate represented to him how matters stood. The Magistrate gave him a letter to Mr. Johnson, who on receipt of it, allowed him to take away the accused. The accused, under the surveillance of my Constable and two Policemen of the Mysore State were subsequently brought before the District Magistrate of Kadur and with his sanction in writing were removed to this District.

"The date of the arrest is mentioned nowhere by Mr. Johnson, and in the absence of any statement from the Taluk Police Inspector and a corroborative statement from the Amildar Magistrate to the effect that the Constable had appeared before him for the purpose of getting his endorsement on the warrants and that he had declared it unnecessary, I am not in a position to fully verify my constable's explanation, but from the Taluk Inspector's own endorsements on the warrants and from the Amildar Magistrate's own admission which shows that even when he wrote to Mr. Johnson (which must have been at a later date) he was under the impression that the British Police could act without previous reference to the Mysore

authorities,

I am not inclined to entirely discredit what my constable states.

"Instructions regarding arrests in Foreign territory are hung up in the Police Stations in this Presidency, and as proving that he knew his procedure, despite the misdirection of a man who is supposed to know better than himself, my constable went to the Police Inspector of the Taluk and with the aid of a constable lent to him, effected the arrests on Mr, Johnson's estate,

"The warrants in question were issued by the Stationary Sub Magistrate of Mangalore Taluk and bear his seal and signature. They also bear the Tarikere Taluk Police Inspector's endorsement dated 26th August 1901. The constable states that he appeared before the Amildar Magistrate on the eveing of the 25th August and the Amildar-Magistrate owns that it was about that date when he appeared before him. On the 27th August, as stated by my Constable, he received the letter informing Mr. Johnson not to interfere with the constable from the Magistrate, referred to by Mr. Johnson. His delay of two days mentioned by Mr. Johnson, was owing to his having to appear before the Magistrate and return to Hoskan, He returned on the 28th and with the assistance of two Police officers of Santavere Station escorted the accused to the District Magistrate.

"A careful perusal of Mr. Johnson's own letter, "on which he agreed to leave the coolies here with a Mysore Constable till next morning," would have at once dispelled any doubts as to his so-called irregular action. The arrest was, moreover, not on his own responsibility, but with the direct assistance of the Mysore Police Constables whom he had with him.

" In conclusion, I have to state that it seems hardly likely that, had there been anything flagrantly wrong in my constables action, the District Magistrate before whom he appeared on August 30th would have allowed him to remove his prisoners without question. The Amildar Magistrate seems to have indirectly caused a wrong opinion to be formed. He says the constable appeared before him about the 25th August. He does not say when he wrote the letter in question to Mr. Johnson. If he wrote it on

the

the 25th, then this letter was as good as any endorsement by him on the warrants for my constable's action,: If, however, he only wrote the letter on the 27th August, then my constable acted with the knowledge and assistance of the Tarikere Taluk Police Inspector".

2. The constable's explanation is submitted. If it is correct, as it would appear to be, the fault lies with the Amildar Magistrate; and if the latter had fully reported the facts to the District Magistrate of Kadur, it would have been seen that the constable was not to blame.

"Copy"

R. S. Tirumalaiah

Registrar.

Draft to Govt

SECTION Pol
FILE NO. 67/901/02
SERIAL NO. 4

To.

The District Magistr
Kadur,

Dated 22.3.02

No 1609 / J 1375 Secy.

The District Magistr
letter No 213 dated 6th
September 1901, brought
to notice the irregular
arrest by a Mangalore
Constable of certain
persons who were work
in the Hariharpur Estate
in the Tarikere Taluk
without the intervent
of the local Magistrac

~~In returning the enclosures received~~
With reference to the above, has
the honour to forwa
herewith copy of
letter from the Distric
Magistrat

Magistrate of South Canara, Mangalore. Dis. No 6 Mag. R of 1902 dated 23rd January 1902, to the Acting Chief Secretary to the Government of Madras, Judicial Department, on the above subject, and to request that he will be good enough to explain why, if the facts are as stated therein, he raised the question of irregularity of procedure.

2. The enclosures received with his letter are herewith returned.

By order

Sd/-

for Secretary

26/3/02

OFFICE OF THE
1288
APR. 2
1902

SECTION Pol

FILE No. 67/01-02

SUB No. 5

FROM The Deputy Commissioner
Kadina District

To The Secretary to the Govt
of my adv
General & Revenue Dept

Dated 4th

Despatched 5th April 1902.

Received

General No. 711
No.

Enclosure No.

Stating further re the irregular Procedure of a British Police Constable in arresting certain persons who were in the Hoscham Cotas Sanitarium Salut.

Jmd

Note Court of Arbitration

Chikmagalur 4th April 1902

From

H. H. Sharkey Esquire
District magistrate of Kadur

To

H. V. Nanjundayya Esquire M. A. M. L.
Secretary to the Govt of Mysore
General and Revenue Dept to

Sir,

In reply to your docket no 16019 dated 29th ultimo, asking why the question of irregularity of procedure was raised, I have the honor to state that the Order no 6226-35 dated 18th November 1898 points out under order no 115 — Arrests in Foreign Territory (printed in the above order), no arrest can take place in Foreign Territory without a warrant, and the warrant must go through the regular channel. The proper course to pursue when such a person has taken refuge in foreign territory is to report it to the magistrate of the District in order that the necessary warrant may issue. At the same time in the case of any grave criminal taken refuge in foreign territory which may frequently be admissible for the Police officer to go to the Head of the Police of the place where the fugitive

is, and state all the circumstances in order that the Police of the territory may be warned to keep an eye on the criminal until the proper forms have been complied with.

In this case the offence complained of was not a grave one, and therefore the Police Constable have taken the warrant to the magistrate of the District instead of merely obtaining the signature of the Taluk Police Inspector, as such a procedure may lead to abuse in future.

Only 3 enclosures were received with your docket, the Police Constable explanation having been omitted.

I have the honor to be,

Sir,

Your most obedt Servant

A. L. Parker

District magistrate
of Kadur

SECTION Police

FILE NO. 67/Gf01-02

SERIAL NO. 6

To

The Dist. Magte, Kasaragod.

No. 1375/J121

Date: 23/7/02

Correspondence ending with his letter No. 711 dated the 4th April 1902 in the matter of the irregular arrest by a ~~Mangat~~ Mangalore Constable of certain ~~port~~ persons who were working in the Hosdurg Estate of the Taruttere Taluk without the intervention of the local Magistracy.

Adverting to the above, has the honour to observe that if

s stated by the British Constable
~~to~~ the ~~Mayor~~ Amildar-Magistrate
Jarikere had told him that
is intervention was unnecessary,
e Amildar-Magistrate was wrong
nd to request that this Error
may be pointed out to him.

By order

Kari
Jr Secy
22/7/02

Dewan's order]
SN
21/7/02